

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TRAFALGAR POWER, INC., et al.,

Plaintiffs,

-v-

5:05-CV-1533

U.S. BANK NATIONAL ASSOCIATION,

Defendant.

DAVID N. HURD
United States District Judge

O R D E R

Pursuant to the oral decision of the Court, entered into the record after hearing oral argument on February 10, 2009, in Utica, New York, it is hereby

ORDERED that

1. Defendants' motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) is GRANTED in part and DENIED in part;

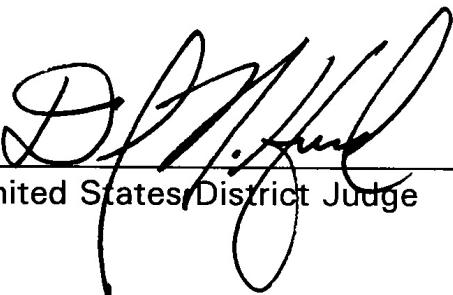
2. The Third, Fifth, Sixth, Seventh, and Eighth Causes of Action are DISMISSED;

3. The motion as to the First, Second, and Fourth Causes of Actions is DENIED;

and

4. Defendant shall file and serve an Answer to the First, Second, and Fourth Causes of Action on or before February 24, 2009.

IT IS SO ORDERED.



United States District Judge

Dated: February 10, 2009
Utica, New York.